IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 13647 of 2005

Between:

M/s.Somdatt Builders Limited, 120, L.S.Nagar, Tirupati-517 502, Chittoor District rep., by its Sr.Finance Manager and Authorized Signatory Mr.K.Sudhir Kumar.

..... PETITIONER

AND

The Assistant Commissioner (CT) LTU, Chittoor Division, Chittoor.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ of mandamus or any other appropriate writ or order declaring the action of the respondent in levying penalty of Rs.99,501/- i.e., three times the differential tax under Section 5B(2)(ii) for the assessment year 2001-02 is, arbitrary, contrary to the provisions of the Andhra Pradesh General Sales tax Act and Rules and without jurisdiction and consequently set aside the order of the respondent in levying penalty under Section 5B(2)(ii) has no application to the facts and circumstances of the petitioner's case and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the petitioner's case.

Counsel for the Petitioner:MR.SHAIK JEELANI BASHA

Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court made the following :

ORAL ORDER: (per the Hon'ble Sri Bilal Nazki, ACJ)

Heard learned counsel for the parties.

The impugned order is an appealable order. Learned counsel for the petitioner, however, submits that the order passed by the Assessing Authority is without jurisdiction. We do not want to enter into argument on such statements because this submission will also have to be decided by the appellate authority. Since there is an efficacious alternate remedy available, we do not entertain this writ petition.

In the interest of justice, however, ten days time is granted to the petitioner to file an appeal.

The writ petition is accordingly dismissed. No costs.

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BILAL NAZKI, ACJ

DATE: 30th June, 2005

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K.C. BHANU,J

Pnb

To

1. The Assistant Commissioner (CT) LTU, Chittoor Division, Chittoor.

2. Two C.Cs. to the Government Pleader for Commercial Taxes, High Court Buildings, Hyderabad. (OUT)

3. Two C.D. Copies